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OFFICE OF THE
EXECUTIVE SECRETARIAT

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VIA CERTIFIED MAIL - RETURN RECEIPT REQUESTED

November 27, 2013

Gina McCarthy, Administrator
United States Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

**Re: Notice of Intent to Sue EPA for its Failure to Act on Wyoming's Non-
Attainment New Source Review State Plan Submission as Required by 42
U.S.C. § 7410(k)(2)**

Dear Administrator McCarthy:

As required by 42 U.S.C. § 7604(b)(2), the State of Wyoming hereby notifies you of its intent to bring a civil action against you in your official capacity as Administrator of the United States Environmental Protection Agency (EPA) for failing to perform a non-discretionary duty under the Clean Air Act (Act). Specifically, you have failed to take action on Wyoming's non-attainment new source review implementation plan within the timeframe prescribed by 42 U.S.C. § 7410(k)(2).

Gina McCarthy, Administrator
November 27, 2013
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On May 10, 2011, the State of Wyoming submitted its non-attainment new source review implementation plan to EPA. The Act required EPA to determine whether the plan was complete within six months of submission. 42 U.S.C. § 7410(k)(1)(B). EPA failed to do so and, as a result, the plan became complete by operation of law on November 11, 2011. *Id.*

Following this determination of completeness, the Act required EPA to take final action approving or disapproving, or partially approving and disapproving, Wyoming's implementation plan no later than November 11, 2012. *Id.* § 7410(k)(2). To date, more than a year after EPA's statutory deadline, EPA has not taken any action on Wyoming's plan. As a result, you have failed to perform a non-discretionary duty under Section 110(k)(2) of the Act.

The State of Wyoming accordingly provides you this notice of its intent to commence a civil action seeking declaratory and injunctive relief to enforce the non-discretionary duty described above, as well an award of litigation costs. The State of Wyoming intends to file suit sixty days from the date of postmark of this letter.

Please feel free to contact me if you have any questions concerning this communication.

Sincerely,



Peter K. Michael
Attorney General

